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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,848	01/21/2004	Harald Rohde	112740-912	3062
29177 7590 04/30/2007 BELL, BOYD & LLOYD, LLP P.O. BOX 1135 CHICAGO, IL 60690			EXAMINER MOONEY, MICHAEL P	
			ART UNIT 2883	PAPER NUMBER
			MAIL DATE 04/30/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/761,848

Applicant(s)

ROHDE, HARALD

Examiner

Michael P. Mooney

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 6-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 10 is/are rejected.
- 7) ☒ Claim(s) 4 and 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

As was stated in the 9/22/06 Office action, Applicant's election of claims 1-5, 10 in the reply filed on 10/24/05 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the 9/20/05 restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Specification

The amendment(s) to the Specification/Claim submitted 1/22/07 is/are accepted by the Examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3 are rejected under 35 U.S.C. 102(e) as being anticipated by Farroni et al. (6904214).

Farroni et al. teaches an apparatus for filtering (e.g., fig. 1A; fig. 2) an optical data signal, comprising a bandpass filter (fig. 2) including a transmission curve characteristic having a passband at a mid-frequency for a bandwidth (fig. 2), wherein the transmission

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curve has an attenuation range (see around 28/1.sub.B in fig. 2) which covers the mid-frequency (e.g., fig. 1A; fig. 2).

Thus claim 1 is met.

Farroni et al. teaches wherein the attenuation range is narrowband in a region of the mid-frequency (e.g., fig. 1A; fig. 2). Thus claim 2 is met.

Farroni et al. teaches wherein the attenuation range is one of U-shaped and V-shaped (e.g., fig. 2). Thus claim 3 is met.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Farroni et al. (6904214).

Farroni et al. teaches an apparatus for filtering (e.g., fig. 1A; fig. 2) an optical data signal, comprising a bandpass filter (fig. 2) including a transmission curve characteristic having a passband at a mid-frequency for a bandwidth (fig. 2), wherein the transmission curve has an attenuation range (see around 28/ λ .sub.B in fig. 2) which covers the mid-frequency (e.g., fig. 1A; fig. 2).

Although Farroni et al. does not explicitly state "providing that at least the optical data signal upstream of optical reception pass through the bandpass filter" it would have been obvious to do so because it is conventionally known to provide the data signal upstream of the optical reception pass through the bandpass filter thereby increasing a sensitivity of reception of an optical data signal at an optical carrier frequency.

Thus method claim 10 is rejected.

Allowable Subject Matter

Claims 4-5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art, either alone or in combination, does not disclose or render obvious wherein the attenuation range contains a combination of (a) one of a U-shaped profile and a V-shaped profile away from the mid-frequency, and (b) a narrowband profile at the mid-frequency in combination with the rest of claim 4.

It is noted that the claim 4 is allowable because the unique combination of each and every specific element stated in the claim.

The prior art, either alone or in combination, does not disclose or render obvious wherein the transmission curve having the mid-frequency is represented by a normalized transfer function $H(f)$ as stated in the 1/22/02 Amendment to claim 5 in combination with the rest of claim 5.

It is noted that the claim 5 is allowable because the unique combination of each and every specific element stated in the claim.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Mooney whose telephone number is 571-272-2422. The examiner can normally be reached during weekdays, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font can be reached on 571-272-2415. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink that reads "Michael P. Mooney". The signature is fluid and cursive, with the first name "Michael" and last name "Mooney" clearly legible.

Michael P. Mooney
Examiner
Art Unit 2883

A handwritten signature in black ink that reads "Frank G. Font". The signature is cursive and stylized, with the first name "Frank" and last name "Font" clearly legible.

Frank G. Font
Supervisory Patent Examiner
Art Unit 2883

FGF/mpm
4/23/07